THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.31850 OF 1997

DATED: 09-04-2007

Between :

Sri Kishore Ramchander ... Petitioner

And

1. State of A.P., rep. by its Principal Secretary,
   Revenue Department, Secretariate Buildings,
   Hyderabad and another. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.31850 OF 1997

ORDER :

This writ petition is filed seeking a declaration that the order dated 10-12-1996 passed by the 1st respondent – Government of Andhra Pradesh in rejecting the application filed by the petitioner for grant of exemption under Section 20 (1) (b) of the Urban Land (Ceiling and Regulation) Act, 1976 as arbitrary and illegal.

The petitioner claims to be the owner of 4,562.0 sq. mts. together with dwelling units apart from a house bearing No.4-3-12 to 14 at Secunderabad admeasuring 309.95 sq. mts. Pursuant to the declaration made by the petitioner under Section 6 (1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, 'the Act') the 2nd respondent – Special Officer and Competent Authority under the Act passed an order dated 14-2-1978 determining provisionally that the petitioner is holding an extent of 3561.08 sq. mts. in excess. Accordingly, draft statement under Section 8 (1) of the Act was issued on 14-2-1968 inviting objections.

Admittedly the petitioner did not file any objections before the 2nd respondent and consequently final statement under Section 9 of the Act was issued by the 2nd respondent on 2-6-1980 confirming the draft statement.

The petitioner states that in the meantime she made an application under Section 20 (1) (a) of the Act seeking exemption on the ground that the land in question is proposed to be used for group housing. It is alleged that while keeping the said application

pending, the 1st respondent passed the impugned order dated 10-12-1996 rejecting the application made by one G. Sampath Reddy styling himself as the General Power of Attorney-holder of the petitioner. It is further alleged that the petitioner never instructed the said Sampath Reddy to file such application on her behalf for exemption under Section 20 (1) (b) of the Act and as a matter of fact the petitioner had long back instructed the said Sampath Reddy not to act on her behalf. Hence, this writ petition seeking a declaration that the order of the 1st respondent dated 10-12-1996 is arbitrary and illegal and consequently to direct the 1st respondent to pass an order under Section 34 of the Act for Revision of the draft statement under Section 8 (4) and the final statement under Section 9 of the Act.

The learned Counsel for the petitioner vehemently contended that as a matter of fact the house properties of the petitioner are outside the provisions of the Act and therefore the petitioner is under no obligation to file a declaration under Section 6 (1) of the Act. It is contended that the 2nd respondent had passed the order under Section 8 (4) of the Act determining the petitioner as a surplus-holder erroneously without application of mind to the dwelling units existing on the land in question. While placing reliance upon the decision of the Supreme Court in SMT. MEERA GUPTA v. STATE OF W.B. AND OTHERS[1], the learned Counsel contended that in view of the law laid down by the Apex Court it is a fit case to exercise the power of Revision under Section 34 of the Act.

Accordingly, a Mandamus is sought directing the 1st respondent to exercise its power under Section 34 of the Act to revise the determinations made by the 2nd respondent under Sections 8 and 9 of the Act.

In the counter-affidavit filed on behalf of the respondents, it is stated that the petitioner never brought to the notice of the 1st respondent that G.Sampath Reddy is not entitled to represent her. As

a matter of fact apart from the application made by the petitioner under Section 20 (1) (a) of the Act for exemption, another application was made through her General Power of Attorney-holder under Section 20 (1) (b) of the Act. The 1st respondent had called for the necessary reports on both the said applications and having considered the matter in detail, the impugned order was passed rejecting the application made under Section 20 (1) (b) of the Act. It is stated that the proposals were submitted by the 2nd respondent for Revision under Section 34 of the Act also and the matter is still under consideration.

At the outset, it is to be noted that the order impugned under which the petitioner's request for exemption under Section 20 (1) (b) of the Act was rejected is absolutely devoid of any reasons. Except stating that the applicant does not deserve any consideration and the Government had accordingly decided to reject the request of the applicant, no other reason was assigned. In the absence of reasons, it cannot be said that the power conferred under Section 20 has been exercised properly and therefore on that ground alone, the impugned order is liable to be set aside.

Accordingly, the impugned order dated 10-12-1996 is set aside and the Writ Petition is disposed of with a direction to the 1st respondent to consider the application of the petitioner afresh after notice to the petitioner and pass appropriate orders in accordance with law. No costs.

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G. ROHINI, J.

Dt.09-04-2007

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[1] AIR 1992 SUPREME COURT 1567